

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL BEST,

Plaintiff,

-against-

CORRECTIONAL OFFICER BRIDGEWATER,
WARDEN RICHARD PALMER JR., CORRECTIONAL
OFFICER RODRIGUEZ,

Defendants.

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ANSWER

CV 04 8213 (LAK)(THK)

JURY TRIAL DEMANDED

Defendant Richard Palmer, Jr., by his attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for his answer to the complaint, respectfully alleges, upon information and belief, as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "I" of the complaint and all subparts thereto.
2. Denies the allegations set forth in paragraph "II" of the complaint and all subparts thereto, except admit there is a grievance procedure in place at O.B.C.C. on Riker's Island.
3. Denies the allegations set forth in paragraph "III" of the complaint and all subparts thereto, except admit that plaintiff purports to proceed against those individuals as set forth therein.
4. Denies the allegations set forth in paragraph "IV" of the complaint and all subparts thereto, except admit that plaintiff was arrested, charged, and tried for assaulting a corrections officer, and that the jury returned a "not guilty" verdict.

5. Denies the allegations set forth in paragraph “IV-A” of the complaint and all subparts thereto.

6. Denies that plaintiff is entitled to any of the relief requested in paragraph “V” of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

7. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

8. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

9. Any injury alleged to have been sustained resulted, in whole or in part, from plaintiff’s culpable or negligent conduct and was not the proximate result of any act of the defendant.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

10. Plaintiff’s state law claims, if any, are barred in part by the applicable statute of limitations.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

11. Defendant has not violated any clearly established constitutional or state right of which a reasonable person would have knowledge and therefore is protected by qualified immunity.

AS AND FOR AN SIXTH AFFIRMATIVE DEFENSE:

12. Plaintiff provoked any incident.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

13. Plaintiff failed to comply with General Municipal Law §50.

WHEREFORE, defendant respectfully requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
June 14, 2007

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant
Correction Officer Bridgewater and Richard
Palmer, Jr.
100 Church Street, Room 3-155
New York, New York 10007
(212) 788-0987

By: /S/
Brian G. Maxey (BM 0451)
Special Federal Litigation Division

To: Mr. Michael Best
Plaintiff, Pro Se
333 E. 176 Street, Apt. #5A
Bronx, New York 10457

DECLARATION OF SERVICE

Brian G. Maxey, Esq., declares, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct: On June 14, 2007, I served the annexed “ANSWER” upon Michael Best, plaintiff *pro se*, by depositing a copy of same, enclosed in a first class, postpaid properly addressed wrapper in a post office/official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to plaintiff at:

Mr. Michael Best
Plaintiff, Pro Se
333 E. 176 Street, Apt. #5A
Bronx, New York 10457

being the address designated by plaintiff for that purpose.

Dated: New York, New York
June 14, 2007

_____/S/_____
BRIAN G. MAXEY (BM 0451)
SPECIAL FEDERAL LITIGATION DIVISION

CV 04 8213 (LAK)(THK)

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RODRIGUEZ,

Defendants.

ANSWER

MICHAEL A. CARDOZO

*Corporation Counsel of the City of New York
Attorney for Defendant
Correction Officer Bridgewater
100 Church Street, 3-156
New York, N.Y. 10007*

*Of Counsel: Brian G. Maxey
Tel: (212) 788-0987
NYCLIS No.*

Due and timely service is hereby admitted.

New York, N.Y., 2007 . . .

..... Esq.

Attorney for.....